STEVEN G. KALAR
Federal Public Defender
VARELL L. FULLER
Assistant Federal Public Defender
55 South Market Street, Suite 820
San Jose, CA 95113
Telephone: (408) 291-7753
varell_fuller@yahoo.com

Counsel for Defendant RAMIREZ-GONZALEZ

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. VICTOR RAMIREZ-GONZALEZ, Defendant.	No. CR-14-00407-BLF **DEFENDANT'S EXHIBITS IN SUPPORT OF MOTION TO DISMISS INDICTMENT** Date: June 28, 2016 Time: 9:00 a.m. Honorable Beth Labson Freeman

TABLE OF EXHIBITS

Exhibit A:	Complaint, Monterey County Superior Court, SS041826A
Exhibit B:	Minute Order, May 5, 2005, SS041826A
Exhibit C:	Minute Order, June 2, 2005, SS041826A
Exhibit D:	I-213, Record of Deportable / Inadmissible Alien (2007)
Exhibit E:	I-213, Record of Deportable / Inadmissible Alien (2008)
Exhibit F:	Minute Order, November 3, 2008, SS041826A
Exhibit G:	Email of IEA Josh Arambulo and Response Thereto
Exhibit H:	Notice of Intent to Issue a Final Administrative Removal Order
Exhibit I:	Declaration of Victor Ramirez-Gonzalez
Exhibit J:	Final Administrative Removal Order
Exhibit K:	Executed Warrant of Removal
Exhibit L:	CALCRIM 877

EXHIBIT A

DEAN D FLIPPO
District Attorney
MONTEREY COUNTY
By: GLEN P PESENHOFER
Deputy District Attorney
240 CHURCH ST
SALINAS, CA 93901

Telephone: (831) 755-5070

Attorneys for Plaintiff

FILED

MAR 21 2005

LISA M. GALDOS
CLERK OF THE SUPERIOR COURT
BY: [signature] Deputy
Frances Nichols

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY

The People of the State of California, Plaintiff, v. VICTOR GONZALEZ, aka VICTOR RAMIREZ MATIAS, aka VICTOR MATIAS RAMIREZ, Defendant(s).	DA Case: INF 0251479 SS041826A INFORMATION ARRAIGN DATE: 04/05/2005

The said defendant(s) is/are accused by the District Attorney of the County of MONTEREY of the State of California, by this information, of the following crime(s):

PC 244 ASSAULT WITH CAUSTIC CHEMICAL

COUNT: 001, On or about MARCH 3, 2004 the crime of ASSAULT WITH CAUSTIC CHEMICALS, in violation of Section 244 of the Penal Code, a FELONY, was committed by VICTOR GONZALEZ, who at the time and place last aforesaid, did willfully, unlawfully, and maliciously place and throw, and caused to be placed and thrown upon the person of ELODIA CALVO, vitriol, corrosive acid and caustic chemical with the intent to injure the flesh and disfigure the body of the said victim.

PC 244 ASSAULT WITH CAUSTIC CHEMICAL

COUNT: 002, for a further and separate cause of complaint, being a different offense from but connected in its commission with the charge set forth in Count 001, complainant further complains and says: On or about MARCH 3, 2004 the crime of ASSAULT WITH CAUSTIC CHEMICALS, in violation of Section 244 of the Penal Code, a FELONY, was committed by VICTOR GONZALEZ, who at the time and place last aforesaid, did willfully, unlawfully, and maliciously place and throw, and caused to be placed and thrown upon the person of MARIA CALVO, vitriol, corrosive acid and caustic chemical with the intent to injure the flesh and disfigure the body of the said victim.

PC 422 THREATS OF VIOLENCE

COUNT: 003, for a further and separate cause of complaint, being a different offense from but connected in its commission with the charge set forth in Count 002, complainant further complains and says: On or about MARCH 2, 2004 the crime of THREATS OF VIOLENCE, in violation of Section 422 of the Penal Code, a FELONY, was committed by VICTOR GONZALEZ, who at the time and place last aforesaid, did willfully and unlawfully threaten to commit a crime which would result in death or great bodily injury to another, to-wit: ELODIA CALVO This is a serious felony within the meaning of Penal Code Section 1192.7(c)(38).

PC 273.5(A) INFLICT CORPORAL INJURY ON SPOUSE/COHABITANT

COUNT: 004, for a further and separate cause of complaint, being a different offense from but connected in its commission with the charge set forth in Count 003, complainant further complains and says: On or about FEBRUARY 15, 2004 THROUGH MARCH 3, 2004 the crime of CORPORAL INJURY TO SPOUSE/COHABITANT/PARENT OF CHILD, in violation of Section 273.5(a) of the Penal Code, a FELONY, was committed by VICTOR GONZALEZ, who did willfully and unlawfully inflict a corporal injury resulting in a traumatic condition upon ELODIA CALVO, who was then and there the spouse/cohabitant of the defendant and the parent of a child of said defendant.

Pursuant to Penal Code Section 1054.5(B), the people are hereby informally requesting that defendant's counsel provide discovery to the people as required by Penal Code Section 1054.3.

Dated: MARCH 21, 2005

DEAN D FLIPPO
DISTRICT ATTORNEY

Glenn Pesenhofer

GLEN P PESENHOFER
DEPUTY DISTRICT ATTORNEY

EXHIBIT B

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY	
The People of the State of California, Plaintiff vs. **Gonzalez, Victor,** Defendant	Hon. **Harry E. Woolpert** Clerk: **Deanna DeRuosi** CSR: **Denise Nebolon** Recording No. **11:28:17**
Minutes: **Pre-Trial Conference** **May 5, 2005**	**Case No.** **SS041826A** **Courtroom 10**

Charges:

1: PC244 [Assault With Caustic Chemical] FEL

2: PC244 [Assault With Caustic Chemical] FEL

3: PC422 [Threats To Commit Crime Resulting In Death] FEL

4: PC273.5(a) [Inflict Corporal Injury On Spouse/Cohabitant] FEL

1: PC244 [Assault With Caustic Chemical] FEL

2: PC244 [Assault With Caustic Chemical] FEL

3: PC422 [Threats To Commit Crime Resulting In Death] FEL

4: PC273.5(a) [Inflict Corporal Injury On Spouse/Cohabitant] FEL

Deputy District Attorney Glenn Pesenhofer appeared.

Defendant appears and is in custody on this case.

Defendant appeared with Deputy Public Defender Michael Pettit.

Spanish language interpreter Toni Aragon appeared. Oath on file with the clerk of the court pursuant to ec 751(d).

Vacate Jury Trial Calendar Call that was set on 06-02-05 at 1:30pm.

Vacate Jury Trial that was set on 06-06-05 at 8:15am.

The maximum penalty for this offense is 4 year(s) 0 month(s) state prison and 3 year(s) 0 month(s) parole.

The Defendant is advised of the possible fines and/or restitution associated with entering a plea of guilty or Nolo Contendere.

Defendant given PC 12021 advisement that as a result of this conviction Defendant will not be able to own or possess any firearms for the next ten years.

The Defendant is advised that by entering a plea of guilty or Nolo Contendere, he/she will be required to attend Counseling as a term of probation.

Defendant advised that this conviction may be alleged as a prior offense.

Conviction of the offense may have the consequence of deportation.

Defendant advised that on entering a plea of guilty or Nolo Contendere that he would be giving up the following rights: His privilege against self-incrimination, the right to jury trial to confrontation and cross-examination of the witnesses against him. After questioning the Defendant the court finds that he understood the nature of the charge and the possible range of penalties and other consequences of his plea, including the effect of the admission of any prior convictions. The court finds that the Defendant understood and knowingly, voluntarily and intelligently waived each of the above rights, and that there was a factual basis for the plea.

Defendant orally states that he has read and understands the acknowledgement of waiver or rights form, and the maximum, and minimum penalties form, which he has signed and is incorporated herein.

Upon stipulation of Counsel, court finds a factual basis for the plea.

Plea entered on condition: 4 year top if defendant does not receive felony probation.

Defendant enters a plea of guilty to count 1.

Dismissal of remaining counts continued to time of sentence.

Arbuckle waived

Referred to Probation Department for Pre Sentence Report, on 06-02-05 at 8:15am in Salinas courtroom 10.

Defendant to remain In-Custody

Bail set at 50,000.

A copy of this Minute Order has been faxed and sent to the domestic violence probation department.\\

I certify that this document was received Electronically from the record repository of the Justice Partner Website
Monterey Co Superior Court
Date: 11/5/08
Officer: [signature] DO818

EXHIBIT C

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY	
The People of the State of California, Plaintiff vs. **Gonzalez, Victor,** Defendant	Hon. **Lydia M. Villarreal** Clerk: **Deanna DeRuosi** CSR: **Jennifer Stewart** Recording No. **9:36:08**
Minutes: **Probation/Sentencing** **June 2, 2005**	**Case No. SS041826A** **Courtroom 10**

Charges:

1: PC244 [Assault With Caustic Chemical] FEL

2: PC244 [Assault With Caustic Chemical] FEL

3: PC422 [Threats To Commit Crime Resulting In Death] FEL

4: PC273.5(a) [Inflict Corporal Injury On Spouse/Cohabitant] FEL

1: PC244 [Assault With Caustic Chemical] FEL

2: PC244 [Assault With Caustic Chemical] FEL

3: PC422 [Threats To Commit Crime Resulting In Death] FEL

4: PC273.5(a) [Inflict Corporal Injury On Spouse/Cohabitant] FEL

Deputy District Attorney Glenn Pesenhofer appeared.

Defendant appears and is in custody on this case.

Defendant appeared with Deputy Public Defender Michael Pettit.

Spanish language interpreter Anna Marie Massung appeared. Oath on file with the clerk of the court pursuant to ec 751(d).

Case regularly called for sentencing. Court has read and considered report and recommendation of Probation Officer, and Diagnostic Report if any.

Additions and corrections stated on the record.

Recommendations made by respective parties.

Defendant states there is no legal cause why judgment should not be pronounced.

Imposition of sentence suspended, and Defendant placed on probation for a period of 3 yrs; 0 mos; 0 days and to obey all laws. Type of probation: Formal.

Report to Probation Officer when and as required.

Report to Probation Officer within 3-days of sentencing. If defendant is in Custody report 3-days after release.

Not change place of residence from Monterey County or leave the State of California without permission of the Probation Officer.

Report any changes of residence and telephone number to the Probation Officer within 24 hours.

Pay restitution fine of $200 for the State Restitution Fund as directed by the Monterey County Revenue Division by 06-02-06 (PC 1202.4(b)).

An additional Probation Revocation Restitution Fine in the amount of $200 is assessed and shall become effective upon the revocation of probation (P.C. 1202.44).

Pay domestic violence fee of $400 to the Monterey County Revenue Division on or before 06-02-06. (PC 1203.097(a)(5))

Pay court security fee of $20 to the Monterey County Revenue Division on or before 06-02-06. (PC1465.8(a)(1))

Pay fine/fee to the Monterey County Revenue Division located at 240 Church St., 1st Floor, E. Wing, Room 121 Salinas, CA or mail to P. O. Box 60, Salinas, CA 93902.

Not use or possess narcotics, drugs or other controlled substances without the Prescription of a physician; not traffic in or associate with persons who use or traffic in narcotics or other controlled substances.

Submit to narcotics/alcohol test & fields sobriety test when required by Probation Officer or Peace Officer..

Permit the search of your person, car, personal effects, or place of residence, Night or day, without necessity of a search warrant, at the direction of the Probation Officer or Peace Officer.

Maintain gainful employment.

Attend and complete one year domestic violence counseling program.

Complete 40 hours of community service work as directed by the Probation Officer.

Comply with all rules of the program including the keeping of appointments and the payment of program fees.

Not annoy, molest, attack, strike, threaten, harass, stalk, sexually assault, batter, or disturb the peace of the victim.

Have no contact with victim, including telephone, written or second party contacts or via computer.

Not hit, threaten, or strike any other person, particularly:Victim.

Defendant ordered to have no contact directly or indirectly with Victim.

Stay at least 100 yards away from victim, victim's residence and vehicle and place of employment.

Participate in any counseling or substance abuse program the Probation Officer Deems necessary, including approved residential treatment.

Not go upon the premises of any local or state correctional facility, for the duration of the probationary term.

Defendant to provide two specimens of blood, a saliva sample, right thumbprint, and full palm impressions of each hand for law enforcement identification analysis pursuant to Section 296(a)(1) of the Penal Code.

Not associate with any individuals known to be on Probation or Parole.

Defendant to serve 365 days.

Credit for time served of 92 days plus 46 days good and work time, for a total of 138 days.

Court denies home detention.

In the event the Defendant is deported, probation reverts to non-reporting. Do not re-enter United States unless legally. Any illegal entry into the United States will be deemed a violation of probation. Upon re-entry to the United States, the Defendant report to the Probation Officer within 72 hours.

The approximate amount of time spent by the Investigating Officer in preparing this report was 8 hours. If it is determined the Defendant has the ability to pay, Defendant is ordered to reimburse the Probation Department for preparation of a Pre-Sentence Report at $20 per hour, plus a pre-determined amount of $99.99 in associated costs.

If it is determined the Defendant has the ability to pay, the Defendant is ordered to reimburse the Probation Department $35.00 per month for the cost of Probation Department supervision.

Defendant accepts probation.

Counts 2, 3, and 4 dismissed on motion of the District Attorney. Reason for dismissal or discharge: Furtherance of Justice.(PC 1385.)

Protective Order in criminal proceeding (CLETS), (Penal Code Section 136.2): Order pending trial.

Domestic violence case (PC 13700).

This order takes precedence over any conflicting court order, except any more restrictive order now in place or issued in the future shall be controlling as to all terms that are more restrictive.

Defendant was personally present at the court hearing, and no additional proof of service of the restraining order is required.

Good cause appearing, the court orders the above-named defendant.

Must surrender to local law enforcement or sell to a licensed gun dealer any firearm owned or subject to his or her immediate possession or control within 24 hours after issuance of this order.

Must have no personal, telephonic or written contact with the protected persons named below.

Must have no contact with the protected persons named below through a third party, except an attorney of record.

Must not come within 100 yards of the protected persons named below.

Name of protected person(s): Elodia Cruz Calvo and Maria Calvo.

This order expires on 06-02-08.

A copy of this Minute Order has been sent to the domestic violence probation department.

\\

Dated: ________________________ ________________________________

Judge of the Superior Court

I certify that this document was received Electronically from the record repository of the Justice Partner website Monterey Co. Superior Court

Date: 11/5/08

Officer: [signature] D0818

SS041826A, June 2, 2005

EXHIBIT D

U.S. Department of Justice
Immigration and Naturalization Service

Record of Deportable/Inadmissible Alien

Field	Value
Family Name (CAPS) / First / Middle	RAMIREZ-Gonzalez, Victor
Sex	M
Hair	BLK
Eyes	BRO
Cmplxn	MED
Country of Citizenship	MEXICO
Passport Number and Country of Issue	
File Number	Case No: XSN0702000006 A098 409 663
Height	70
Weight	150
Occupation	LABORER
U.S. Address	1044 CLEMENTINA ST. SEASIDE, CALIFORNIA 93955
Scars and Marks	See Narrative
Date, Place, Time, and Manner of Last Entry	Unknown Date, Unknown Time, UNK, EWI
Passenger Boarded at	
F.B.I. Number	493306HC5
Marital status	☒ Single ☐ Divorced ☐ Widower ☐ Married ☐ Separated
Number, Street, City, Province (State) and Country of Permanent Residence	EL ESTADO, MEXICO
Method of Location/Apprehension	OTF 511.2.3
Date of Birth	03/15/1978 Age: 28
Date of Action	02/13/2007
Location Code	XSF/XSN
At/Near	MONTEREY, CA
Date/Hour	02/13/2007 0000
City, Province (State) and Country of Birth	EL ESTADO,, MEXICO
AR	☒
Form: (Type and No.)	Lifted ☐ Not Lifted ☐
By	THOMAS ORECCHIA
NIV Issuing Post and NIV Number	
Social Security Account Name	
Status at Entry	PWA Other
Status When Found	SEEKING EMPLOYMENT
Date Visa Issued	
Social Security Number	
Length of Time Illegally in U.S.	OVER 1 YEAR
Immigration Record	NEGATIVE
Criminal Record	See narrative
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate)	
Number and Nationality of Minor Children	1-USA 1-MEX
Father's Name, Nationality, and Address, if Known	RAMIREZ, Filberto Nationality: MEXICO
Mother's Present and Maiden Names, Nationality, and Address, if Known	GONZALEZ, Maria Nationality: MEXICO
Monies Due/Property in U.S. Not in Immediate Possession	
Fingerprinted?	Yes ☒ No ☐
INS Systems Checks	NCIC Positive
Charge Code Word(s)	
Name and Address of (Last)/(Current) U.S. Employer	UNEMPLOYED
Type of Employment	
Salary	Hr.
Employed from/to	/ / — / /

Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.)

OTHER ALIASES KNOWN BY
GONZALEZ, VICTOR

SCARS, MARKS AND TATTOOS
None Visible

Narrative Title: Record of Deportable/Excludable Alien
Narrative Created by ORECCHIA

The ASAC San Jose's Domestic Violence/Sexual Offender Unit identifies aliens who are sexual offender registrants within the State of California convicted of aggravated felonies, child sex, sexual deviancy and domestic violence offences. SUBJECT came to the attention of the ASAC San Jose on 12/29/06, pursuant to these enforcement parameters and as a referral from the Monterey County Adult Probation Office, Monterey, CA.

Pursuant to this investigation SUBJECT is alleged to be a Mexican national who last entered the US without inspection on an unknown date and at an unknown place without inspection.

SUBJECT has a criminal conviction history relating to domestic violence and assault with caustic chemical. Please refer to the conviction documents, Police arrest reports,

Alien has been advised of communication privileges. ____________(Date/Initials)

THOMAS ORECCHIA
SPECIAL AGENT
(Signature and Title of INS Official)

Distribution:

Received: (Subject and Documents) (Report of Interview)
Officer: THOMAS ORECCHIA
on: ____________19____ at ________(time)
Disposition: ADMINISTRATIVE DEPORTATION I-851/I-851A
Examining Officer: ALEX MACK

J.S. Department of Justice
mmigration and Naturalization Service

Continuation Page for Form I-213

Alien's Name	File Number	Date
RAMIREZ-Gonzalez, Victor	Case No: XSN0702000006 A098 409 663	02/13/2007

Probation reports and CII/FBI rap sheets within the file:

On 6/2/05, SUBJECT was convicted in California Superior Court, Monterey County, for the offence of Assault With Caustic Chemical, a violation of Section 244 of the California Penal Code and sentenced to 365 days confinement in County jail (case #SS041826).

The above offense is defined as an "aggravated felony" under Title 8 United States Code, Section 1101(a)(43)(F) of the INA.

At the time of this report SUBJECT is at large and scheduled for arrest at the Monterey County Probation office on 2/14/07.

NTA/WA Operation Predator Referral. Bond recommended upon release to ICE: No Bond-AGG FELON.

238 b

Signature	Title
THOMAS ORECCHIA	SPECIAL AGENT

Form I-831 Continuation Page (Rev. 6/12/92)

EXHIBIT E

U.S. Department of Homeland Security

Immigration and Customs Enforcement

Record of Deportable/Inadmissible Alien

Family Name (CAPS) *Cual es su apellido?*	First/*Primer nombre*	Middle/*Medionombre*	Sex/*Sexo*	Hair/*Pelo*	Eyes/*Ojos*	Cmplxn
RAMIREZ-GONZALEZ	VICTOR	MATIAS	MALE	BLK	BRO	MED

Country of Citizenship *Ciudadania*	Passport Number and Country of Issue	File Number	Height/*Estatura*	Weight/*Peso*	Occupation/*Cual es su ocupacion?*
MEXICO	NONE	A	70	190	

U.S. Address/*Cual es su direccion en los estado unidos?*	Scars and Marks/*Tiene usted cicatrices y marcas?*
	N/V

Date, Place, Time, and Manner of Last Entry/*Cuando, por donde, y como entro usted a los estado unidos?*	Passenger Boarded at	F.B.I. Number	Marital status
04/2002 MEXICALI EWI			☐ Single/*Cual es su estado civil?* ☐ Divorced ☒ Married ☐ Widowed ☐ Separated

Number, Street, City, Province (State) and Country of Permanent Residence/*Cual es su direccion permanente?*	Method of Location/Apprehension
	CAP

Date of Birth/*Fecha de nacimiento*	Age:	Date of Action	Location Code	At/Near/*Lugar*	Date/Hour/*Fecha hora*
03/15/1978		02/11/2008	SNJ	SALINAS, CA	02/11/2008

City, Province (State) and Country of Birth/*Lugar de nacimiento*	AR	Form: (Type and No.)	Lifted	Not Lifted	By
MEXICO, MEXICO	☐		☐	☐	IEA P. Malate

NIV Issuing Post and NIV Number	Social Security Account Name/*Nombre de seguro social*	Status at Entry	Status When Found
		EWI	"

Date Visa Issued	Social Security Number/*Numero de seguro social*	Length of Time Illegally in U.S.
	C/N	OVER 1

Immigration Record/*Archivo de Inmigracion*	Criminal Record/*Archivo criminal*
C/N	SEE FILE

Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate)/*Nombre de esposa(o)*	Number and Nationality of Minor Children/*Cuantos hijos?*
REYES, ALICIA MEXICO SAME	C/N

Father's Name, and Nationality and Address, if Known/*Cual es su nombre, nacionalidad, y direccion de su papa?*	Mother's Present and Maiden Names, Nationality, and Address, if Known/ *Cual es su nombre, nacionalidad, y direccion de su mama?*
RAMIREZ, FILIBERTO MEXICO DECEASED	GONZALEZ, MARIA EUGENIA MEXICO MEXICO

Monies Due/Property in U.S. Not in Immediate Possession	Fingerprinted? Yes ☐ No ☐	ICE Systems Checks	Charge Code Word(s)

Name and Address of (Last) (Current) U.S. Employer	Type of Employment/*Tipo de empleado*	Salary/*Sueldo*	Employed from/to
		Hr.	

Narrative (Outline Particulars under which alien was located/apprehended. Include details, not shown above, regarding time, place manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior). Alien has been advised of communication privileges.__________(Date/Initials)

Facility Name: RAMIREZ-GONZALEZ 0801468

– DOESN'T WANT TO FIGHT

Applications/Petitions Pending: ☐ Yes ☒ No Remarks: ________

Prior Deport: ☐ Yes ☒ No #: ____ Location(s): ________ Date(s): ________

Appeals for Current/Prior Conviction(s): ☐ Yes ☐ No

Tiene usted apealaciones para su condena?

Claims Fear: ☐ Yes ☒ No

Tiene Ud. algun temor de persecucion o tortura si es Ud. retirado de los Estados Unidos?

Health Issue(s): ☐ Yes ☒ No Remarks: ________

Military Service: ☐ Yes ☐ No Remarks: ________

Release Date: ________

Right Thumb

Right Index

Officer: P. Malate

on: FEBRUARY 11 20 08 at MDT (time)

Disposition:

Examining Officer:

Form I-213

U.S. Department of Homeland Security Subject ID : 269760573 **Record of Deportable/Inadmissible Alien**

Family Name (CAPS) / First / Middle	Sex	Hair	Eyes	Cmplxn
RAMIREZ-Gonzalez, Victor Matias	M	BLK	BRO	MED

Country of Citizenship	Passport Number and Country of Issue	File Number	Height	Weight	Occupation
MEXICO	NONE	Case No:SNJ0802000151 A098409663	70	190	LABORER

U.S. Address	Scars and Marks
1133 SONOMA AVENUE #3 SEASIDE, CALIFORNIA, 93955,	None Visible

Date, Place, Time, and Manner of Last Entry	Passenger Boarded at	F.B.I. Number	Marital Status
4/ /2002, Unknown Time, CAL, EWI	N/A	493306HC5	☐ Single ☐ Divorced ☒ Married ☐ Widower ☐ Separated

Number, Street, City, Province (State) and Country of Permanent Residence	Method of Location/Apprehension
UNKNOWN MEXICO	CLC 520.3

Date of Birth	Date of Action	Location Code	At/Near	Date/Hour
03/15/1978 Age: 29	02/12/2008	SFR/SNJ	See I-831	02/11/2008

City, Province (State) and Country of Birth	AR	Form : (Type and No.) Lifted ☐ Not Lifted ☐	By
MEXICO,MEXICO	☒		PATRICK MALATE

NIV Issuing Post and NIV Number	Social Security Account Name	Status at Entry	Status When Found
	NONE	PWA Mexico	IN INSTITUTION

Date Visa Issued	Social Security Number	Length of Time Illegally in U.S.
NONE		OVER 1 YEAR

Immigration Record	Criminal Record
POSITIVE - See Narrative	See Narrative

Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate)	Number and Nationality of Minor Children
See Spouse info in Narrative	CLAIMS NONE

Father's Name, Nationality, and Address, if Known	Mother's Present and Maiden Names, Nationality, and Address, if Known
See Father info in Narrative	Nationality:MEXICO GONZALEZ, Maria UNKNOWN , MEXICO

Monies Due/Property in U.S. Not in Immediate Possession	Fingerprinted?	Systems Checks	Charge Code Words(s)
None Claimed	☒ Yes ☐ No	See Narrative	I6A

Name and Address of (Last)(Current) U.S. Employer	Type of Employment	Salary	Employed from/to
SELF-EMPLOYED		Hr	/ / / /

Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.)

FINS: 1082834023 Left Index fingerprint Right Index fingerprint

OTHER ALIASES KNOWN BY:

GONZALEZ,VICTOR

SPOUSE NAME & ADDRESS

Nationality:MEXICO, REYES, Alicia
...(CONTINUED ON I-831)

JOSHUA ARAMBULO
Immigration Enforcement Agent
(Signature and Title of Immigration Officer)

Alien has been advised of communication privileges ____________ (Date/Initials)

Distribution:	Received: (Subject and Documents) (Report of Interview)
FILE	Officer: JOSHUA ARAMBULO
FILE	on: February 12, 2008 (time)
STATS	Disposition: ADMINISTRATIVE DEPORTATION I-851/I-851A
	Examining Officer: CHARLES DEMORE

Form I-213 (Rev. 08/01/07)

U.S. Department of Homeland Security **Continuation Page for Form** I213

Alien's Name	File Number	Date
RAMIREZ-Gonzalez, Victor Matias	A098409663 Event No: SNJ0802000151	02/12/2008

1133 SONOMA AVENUE #3
SEASIDE, CALIFORNIA, 93955,

FATHER NAME & ADDRESS

Nationality:MEXICO RAMIREZ, Filiberto
DECEASED
MEXICO

RECORDS CHECKED

CIS Pos
CLAIM Neg
DACS Neg
NCIC Pos
NLETS Pos
TECS Neg

At/Near

MONTEREY CO. JAIL SALINAS, CA

Record of Deportable/Excludable Alien:
STATE ID:
CALIFORNIA: CII#A24788721 MCJ#0801468

SUBJECT came to the attention of Immigration and Customs Enforcement (ICE), San Jose, California, pursuant to the SUBJECT's arrest by the Seaside Police Department and subsequent booking in to the Monterey County Jail (MCJ) in Salinas, California.

SUBJECT was interviewed by IEA Patrick Malate at MCJ on February 11, 2008.

SUBJECT stated he was a married male and a citizen of Mexico since birth. SUBJECT claimed to have last entered the United States, without inspection, at Calexico, California, on an unknown date in April 2002.

CRIMINAL HISTORY:
At the time this Record of Deportable/Inadmissible Alien, Form I-213, was prepared, the SUBJECT had one count of California Penal Code Section 245(a)(1) FORCE/DEADLY WEAPON and one count of California Penal Code Section 273.5(a) INFLICT CORPORAL INJURY ON SPOUSE pending (see file).

SUBJECT was, on May 5, 2005, convicted in the Superior Court of California, in and for the County of Monterey, for the offense of ASSAULT WITH CAUSTIC CHEMICAL, a Felony, in violation of Section 244 of the California Penal Code (Case #SS041826A). For this offense the SUBJECT was sentenced to three hundred and sixty-five (365) days in jail. Conviction documents are in the file.

A review of the California Appellate Court website resulted in no appeals found for the above-mentioned criminal case #SS041826A.

...(CONTINUED ON NEXT PAGE)

Signature	Title
JOSHUA ARAMBULO	Immigration Enforcement Agent

U.S. Department of Homeland Security | Continuation Page for Form I213

Alien's Name	File Number	Date
RAMIREZ-Gonzalez, Victor Matias	A098409663 Event No: SNJ0802000151	02/12/2008

IMMIGRATION HISTORY:
SUBJECT stated he had never been deported from the United States.

Except for what is mentioned, SUBJECT disclaimed any other ties, equities or petitions pending before Citizenship and Immigration Services in his behalf.

A review of the agency's indices resulted in no pending petitions, applications, or appeals found for the SUBJECT.

HEALTH AND HUMANITARIAN ASPECTS:
SUBJECT claimed to be in good health.

SUBJECT stated he had no fear of torture or persecution should he be removed from the United States to his country of Citizenship.

RECOMMENDATION:
SUBJECT is deportable under Section 237(a)(2)(A)(iii) as defined in Section 101(a)(43)(F) of the Immigration and Nationality Act (INA). A Notice to Issue a Final Administrative Removal Order, Form I-851, will be served pursuant to Section 238(b) of the INA.

ADDENDUM (11/05/2008):
Case was originally prepared by Operation Predator ICE OI SNJ staff, as an Admin Removal, which was never served on SUBJECT. SUBJECT was later encountered by ICE DRO SNJ at Monterey County Jail, and I-247 was subsequently placed on SUBJECT. As per correspondence with DCC J. Stolley, SUBJECT's conviction of CA PC 244, and subsequent sentencing, constitutes an aggravated felony. Upon appropriate approval, SUBJECT to be issued Final Administrative Removal Order.

Signature	Title
JOSHUA ARAMBULO	Immigration Enforcement Agent

EXHIBIT F

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY	
The People of the State of California, Plaintiff vs. **Ramirez, Victor Matias Gonzalez,** Defendant	Hon. **Larry E. Hayes** Clerk: **Lisa Cortez** CSR: Recording No. **Jeannette Jessup, CSR #8573**
Minutes: **Formal Hearing** **November 3, 2008**	**Case No. SS041826A** **Courtroom 4**

Charges:
1: **PC244 [Assault With Caustic Chemical] FEL. Conviction: Guilty Plea**
2: **PC244 [Assault With Caustic Chemical] FEL. Dismissal**
3: **PC422 [Threats To Commit Crime Resulting In Death] FEL. Dismissal**
4: **PC273.5(a) [Inflict Corporal Injury On Spouse/Cohabitant] FEL. Dismissal**

Nature of proceedings: Formal Hearing

Deputy District Attorney Angela McNulty appeared.

Defendant appears and is in custody on this case.

Defendant appeared with Counsel Scott Erdbacher.

Attorney Scott Erdbacher appeared for Deputy Public Defender Nicole Lambros.

Spanish language interpreter Antonia Aragon appeared. Oath on file with the clerk of the court pursuant to ec 751(d).

Petition to Revoke Probation withdrawn/dismissed.

Probation reinstated on same terms and conditions.

Report to the Probation Officer immediately upon release from custody.

Defendant is discharged.

//

Dated: 11/5/08

Larry E. Hayes, Superior Court Judge

EXHIBIT G

Arambulo, Joshua C

From: Stolley, Jim
Sent: Wednesday, November 05, 2008 1:27 PM
To: Arambulo, Joshua C; SFR Duty Attorney
Subject: RE: Question on CA Penal Code 244

it is an agg felony F

From: Arambulo, Joshua C
Sent: Wednesday, November 05, 2008 12:21 PM
To: SFR Duty Attorney
Cc: Stolley, Jim
Subject: Question on CA Penal Code 244

I have this SUBJECT in custody convicted of violating CA PC 244 ASSAULT WITH CAUSTIC CHEMICAL, sentenced to 365 days. This particular charge is not on the CAPC chart. I would assume it is an agg fel, but is my assumption correct. Should he be Admin Removal or NTA w/CIMT? Please advise ASAP...

Thank you for your help,

IEA Josh Arambulo
San Jose, CA

EXHIBIT H

Notice of Intent to Issue a Final Administrative Removal Order

In removal proceedings under section 238(b) of the Immigration and Nationality Act

FIN # 1082834023

Event No: SNJ0802000151

File Number A098409663

To: Victor Matias RAMIREZ-Gonzalez AKA: GONZALEZ, VICTOR

Address: IN ICE CUSTODY
(Number, Street, City, State and ZIP Code)

Telephone:
(Area Code and Phone Number)

Pursuant to section 238(b) of the Immigration and Nationality Act (Act) as amended, 8 U.S.C. 1228(b), the Department of Homeland Security (Department) has determined that you are amenable to administrative removal proceedings. The determination is based on the following allegations:

1. You are not a citizen or national of the United States.
2. You are a native of MEXICO and a citizen of MEXICO
3. You entered the United States (at)(near) Calexico, California on or about April 2002
4. At that time you entered without inspection
5. You are not lawfully admitted for permanent residence.
6. You were, on ______, convicted in the SEE I-831 Court ______ for the offense of ______ in violation of ______ for which the term of imprisonment imposed was ______.

Charge:
You are deportable under section 237(a)(2)(A)(iii) of the Act, 8 U.S.C. 1227(a)(2)(A)(iii), as amended, because you have been convicted of an aggravated felony as defined in section 101(a)(43)(F) of the Act, 8 U.S.C. 1101(a)(43)(F).

Based upon section 238(b) of the Act, 8 U.S.C. 1228(b), the Department is serving upon you this NOTICE OF INTENT TO ISSUE A FINAL ADMINISTRATIVE REMOVAL ORDER ("Notice of Intent") without a hearing before an Immigration Judge.

Your Rights and Responsibilities:
You may be represented (at no expense to the United States government) by counsel, authorized to practice in this proceeding. If you wish legal advice and cannot afford it, you may contact legal counsel from the list of available free legal services provided to you.

You must respond to the above charges in writing to the Department address provided on the other side of this form within 10 calendar days of service of this notice (or 13 calendar days if service is by mail). **The Department must RECEIVE your response within that time period.**

In your response you may: request, for good cause, an extension of time; rebut the charges stated above (with supporting evidence); request an opportunity to review the government's evidence; admit deportability; designate the country to which you choose to be removed in the event that a final order of removal is issued (which designation the Department will honor only to the extent permitted under section 241of the Act, 8 U.S.C. 1231); and/or, if you fear persecution in any specific country or countries on account of race, religion, nationality, membership in a particular social group, or political opinion or, if you fear torture in any specific country or countries, you may request withholding of removal under section 241(b)(3) of the Act, 8 U.S.C. 1231(b)(3), or withholding/deferral of removal under the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (Convention Against Torture). A grant of withholding or deferral of removal would prohibit your return to a country or countries where you would be persecuted or tortured, but would not prevent your removal to a safe third country.

You have the right to remain in the United States for 14 calendar days so that you may file a petition for review of this order to the appropriate U.S. Circuit Court of Appeals as provided for in section 242 of the Act, 8 U.S.C. 1252. You may waive your right to remain in the United States for this 14-day period. If you do not file a petition for review within this 14-day period, you will still be allowed to file a petition from outside of the United States so long as that petition is filed with the appropriate U.S. Circuit Court of Appeals within 30 calendar days of the date of your final order of removal.

CHARLES DEMORE - SDDO [signature]	SAN JOSE, CA	2:55 pm November 05, 2008
(Signature and Title of Issuing Officer)	(City and State of Issuance)	(Date and Time)

Certificate of Service

I served this Notice of Intent. I have determined that the person served with this document is the individual named on the other side of the form.

JOSHUA ARAMBULO - Immigration Enforcement Agent — November 05, 2008 — IN PERSON

(Signature and Title of Officer) — (Date and Manner of Service)

☒ I explained and/or served this Notice of Intent to the alien in the Spanish language.

N/A

(Name of interpreter) — (Signature of interpreter)

Location/Employer:

I Acknowledge that I Have Received this Notice of Intent to Issue a Final Administrative Removal Order.

(Signature of Respondent) — 11/05/08 3:30 P (Date and Time)

☐ The alien refused to acknowledge receipt of this document.

(Signature and Title of Officer) — (Date and Time)

☐ I Wish to Contest and/or to Request Withholding of Removal

☐ I contest my deportability because: *(Attach any supporting documentation)*

- ☐ I am a citizen or national of the United States.
- ☐ I am a lawful permanent resident of the United States.
- ☐ I was not convicted of the criminal offense described in allegation number 6 above.
- ☐ I am attaching documents in support of my rebuttal and request for further review.

☐ I request withholding or deferral of removal to __________ [Name of Country or Countries]:

- ☐ Under section 241(b)(3) of the Act, 8 U.S.C. 1231(b)(3), because I fear persecution on account of my race, religion, nationality, membership in a particular social group, or political opinion in that country or those countries.
- ☐ Under the Convention Against Torture, because I fear torture in that country or those countries.

(Signature of Respondent) — (Printed Name of Respondent) — (Date and Time)

☑ I Do Not Wish to Contest and/or to Request Withholding of Removal

☑ I admit the allegations and charge in this Notice of Intent. I admit that I am deportable and acknowledge that I am not eligible for any form of relief from removal. I waive my right to rebut and contest the above charges. I do not wish to request withholding or deferral of removal. I wish to be removed to

Mexico

☑ I understand that I have the right to remain in the United States for 14 calendar days in order to apply for judicial review. I do not wish this opportunity. I waive this right.

(Signature of Respondent) — Victor Matias RAMIREZ-GONZALEZ (Printed Name of Respondent) — 11/5/08 3:35 P (Date and Time)

(Signature of Witness) — Joshua C. Arambulo (Printed Name of Witness) — 11/5/08 1535 (Date and Time)

RETURN THIS FORM TO:
Department Of Homeland Security

DHS / ICE / DRO
1887 MONTEREY ROAD
SAN JOSE, CA 95112

ATTENTION: **The Department office at the above address must RECEIVE your response within 10 calendar days from the date of service of this Notice of Intent (13 calendar days if service is by mail).**

U.S. Department of Homeland Security **Continuation Page for Form** I851

Alien's Name	File Number	Date
Victor Matias RAMIREZ-Gonzalez	A098409663 Event No: SNJ0802000151	November 5, 2008

Custom #6

You were, on May 5, 2005, convicted in the Superior Court of California, in and for the County of Monterey, for the offense of, ASSAULT WITH CAUSTIC CHEMICAL, in violation of California Penal Code Section 244, for which the term of imprisonment was 365 days.

Signature	Title
CHARLES DEMORE	SDDO

Form I-831 Continuation Page (Rev. 08/01/07)

EXHIBIT I

STEVEN G. KALAR
Federal Public Defender
VARELL FULLER
Assistant Federal Public Defender
55 South Market Street, Suite 820
San Jose, CA 95113
Telephone: (408) 291-7753
Varell_Fuller@fd.org

Attorneys for Defendant,
VICTOR RAMIREZ-GONZALEZ

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. VICTOR RAMIREZ-GONZALEZ, Defendant.	No. CR 14-0407- BLF **DECLARATION OF VICTOR RAMIREZ-GONZALEZ IN SUPPORT OF MOTION TO DISMISS** Hearing Date: Hearing Time: 9:00 a.m. **Honorable Beth Labson Freeman**

I, Victor Ramirez-Gonzalez, hereby declare as follows:

1. I am the defendant in the above-captioned matter. As of November, 2008, I had lived in the United States for eight years, since April 2000. My attorney has shown me an immigration document, Exhibit E, which states that I told an immigration officer I entered in 2002, but I believe that is a mistake.

2. At this time, I do not remember being interviewed by an immigration officer in February 2008.

3. In November 2008, I was taken to an immigration office in San Jose, California. I was called in to an office and an immigration officer had me sit in a chair. He was writing notes. He asked me if I spoke English and I told him in Spanish that I do not speak English

4. The immigration officer who spoke to me was not fluent in Spanish. I did not understand everything he said. I can understand a little bit of English, but if something is complicated it has to be explained to me in Spanish. I do not speak English and cannot read English. He spoke a few words of Spanish, and he spoke to me in some English and Spanish.

5. The immigration officer had a number of documents. He did not give me a copy of these documents or translate them for me. He said something to me in Spanish about seeing an immigration judge, but he did not speak Spanish very well. He used some Spanish words mixed with English when he asked me if I wanted to see a judge, that's when he threw in words in Spanish. He said to me "Juez Mas tiempo carcel." I understood this to mean: Judge, more time, jail. He said if I wanted to see a judge, then I would be transported to Arizona and it would be, "mas carcel." He used a mix of English and Spanish, and I understood that he said, if you want to go "casa Mexico," sign today. I understood from what he said that if I want to see the judge, I will stay longer in jail, and they were going to take me to Arizona. He did not say how long.

6. The officer did not tell me that the judge could tell me about avoiding deportation. I understood that if I signed the paper, I would leave voluntarily. No one explained to me that there was a difference between leaving voluntarily and voluntary departure. He did not explain anything to me about voluntary departure. If they had explained it to me, I would have requested it, because I had the means to go to Mexico on my own. None of the officers told me I was eligible for any form of voluntary departure or any other relief from deportation. If I had known that I could pay my own way to return to Mexico and it

would not count as a "deportation," I would have requested that option. The immigration officer that I saw in San Jose in 2008 did not tell me about that possibility. I would not have signed the documents in 2008 if I had known about that possibility, and I would instead have requested voluntary departure. If I had known it would be better to see the judge and that the judge could give me voluntary departure, I would have waited to see the judge. I thought things would be worse for me if I saw the judge, so I did not request that.

7. My attorney has shown me Exhibit H, which I see is titled, "Notice of Intent to Issue A Final Administrative Removal Order." I now see that it is a three-page document. In 2008, I was only shown the second page of this document, and the immigration officer showed me where to sign it. My attorney has had an interpreter translate all three pages for me in Spanish, and this is the first time this document has been translated or explained to me. In 2008, the immigration officer did not review it with me in Spanish. This form was not translated nor was it explained to me in 2008. He did not review anything with me. He said to sign here. I am certain that form was not explained to me.

8. He did not explain to me I had a right to a lawyer. I was not provided with a list of free legal services. I was not told I could contest these charges. I did not know I could do that until my lawyer explained this to me in preparing this declaration. No one explained to me that I could hire an immigration lawyer to challenge whether I had an aggravated felony. If I had known, I would have taken steps to hire an immigration lawyer because I had the means to hire one. He did not explain I could make a phone call. He did not explain I had a right to appeal.

9. I did not understand that Exhibit H listed allegations against me. He just did not explain anything to me. I asked him, what is that I am signing. And he said, "Mexico Casa Today," before I signed the form. I did not know I was agreeing not to contest the charges by signing the form, such as the charge that I had a prior conviction which the

immigration service said was an aggravated felony. If I had understood that by agreeing to go to Arizona to see the immigration judge, I could have requested relief from removal, I would never have signed that form.

10. After I signed the form, the officer gave me a piece of paper and pointed to the bottom, and said, "no cinco anos, five years." I went back to where everyone else was being kept and I asked another person in custody, does it say here that I cannot come back in five years; and the person said no it does not say that. I could not read the form because it was in English.

11. I was not aware, and no one explained to me, that there was any basis for me to challenge my removal. I did not know, and no one explained to me, that I could argue that I did not have an aggravated felony conviction.

12. In 2008, I had two children who were United States citizens. One was eight years old and the other one was a baby. They were being raised by their mothers. I did not live with them, but I regularly provided financial support for them.

13. Before I went into custody in 2008, I was self-employed and working in construction. I estimate that I had $15,000 that I had available to purchase construction supplies for my jobs. I could have used that money to pay my travel expenses and to hire a lawyer.

I declare under penalty of perjury that the foregoing is true and correct and of my personal knowledge.

Executed this 3 day of May, 2016, in the Northern District of California, San Jose, California.

VICTOR RAMIREZ-GONZALEZ
Defendant

INTERPRETER CERTIFICATION

I, Thelma Oros, hereby certify that I am a federally-certified Spanish language interpreter and that I accurately translated the foregoing Declaration from English to Spanish for the Defendant, Victor Ramirez-Gonzalez, before he signed it.

Dated: May 3, 2016

Signature

EXHIBIT J

Final Administrative Removal Order

In removal proceedings under section 238(b) of the Immigration and Nationality Act

Event No: SNJ0802000151
PIN # 1082834023
File Number A098409663
Date November 5, 2008

To: Victor Matias RAMIREZ-Gonzalez AKA: GONZALEZ, VICTOR

Address: IN ICE CUSTODY
(Number, Street, City, State and ZIP Code)

Telephone:
(Area Code and Phone Number)

ORDER

Based upon the allegations set forth in the Notice of Intent to Issue a Final Administrative Removal Order and evidence contained in the administrative record, I, the undersigned Deciding Officer of the Department of Homeland Security, make the following findings of fact and conclusions of law. I find that you are not a citizen or national of the United States and that you are not lawfully admitted for permanent residence. I further find that you have a final conviction for an aggravated felony as defined in section 101(a)(43)(F) of the Immigration and Nationality Act (Act) as amended, 8 U.S.C. 1101(a)(43)(F), and are ineligible for any relief from removal that the Secretary of Homeland Security, may grant in an exercise of discretion. I further find that the administrative record established by clear, convincing, and unequivocal evidence that you are deportable as an alien convicted of an aggravated felony pursuant to section 237(a)(2)(A)(iii) of the Act, 8 U.S.C. 1227(a)(2)(A)(iii). By the power and authority vested in the Secretary of Homeland Security, and in me as the Secretary's delegate under the laws of the United States, I find you deportable as charged and order that you be removed from the United States to:

MEXICO

or to any alternate country prescribed in section 241 of the Act.

SYLVIA ARGUELLO [signature]
(Signature of Authorized Official)

ASSISTANT FIELD OFFICE DIRECTOR
(Title of Official)

November 05, 2008, San Francisco CA
(Date and Office Location)

Certificate of Service

I served this FINAL ADMINISTRATIVE REMOVAL ORDER upon the above named individual.

November 05, 2008 SAN JOSE, CA 1620 P IN PERSON
(Date, Time, Place and Manner of Service)

JOSHUA ARAMBULO [signature]
Immigration Enforcement Agent D02818
(Signature and Title of Officer)

Form I-851A (Rev. 08/01/07)

EXHIBIT K

U.S. Department of Homeland Security

Warrant of Removal/Deportation

DHS/ICE
1887 Monterey Rd.
San Jose, CA 95112

File No: A098409663
Event No: SNJ0802000151
Date: November 5, 2008

To any immigration officer of the United States Department of Homeland Security:

Victor Matias RAMIREZ-Gonzalez AKA:
VICTOR GONZALEZ

(Full name of alien)

who entered the United States at Calexico, California (Place of entry) on April 2002 (Date of entry)

is subject to removal/deportation from the United States, based upon a final order by:

- ☐ an immigration judge in exclusion, deportation, or removal proceedings
- ☒ a designated official
- ☐ the Board of Immigration Appeals
- ☐ a United States District or Magistrate Court Judge

and pursuant to the following provisions of the Immigration and Nationality Act:
238 (b)

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Secretary of Homeland Security under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above-named alien, pursant to law, at the expense of:
Salaries and Expenses, Department of Homeland Security 2009.

SYLVIA ARGUELLO
(Signature of immigration officer)

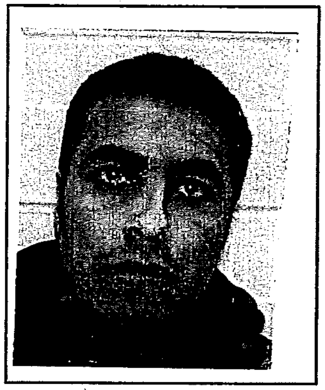
ASSISTANT FIELD OFFICE DIRECTOR
(Title of immigration officer)

November 5, 2008, SAN FRANCISCO, CA
(Date and office location)

To be completed by immigration officer executing the warrant:
Name of alien being removed:

Victor Matias RAMIREZ-Gonzalez

Port, date, and manner of removal: SYS, 11-1-08, AFOOT



Photograph of alien removed

Right index fingerprint of alien removed

(Signature of alien being fingerprinted)

IEA D02818
(Signature and title of immigration officer taking print)

DHS/ICE
1887 Monterey Rd.
San Jose, CA 95112

Departure witnessed by: 7G2196
(Signature and title of immigration officer)

If actual departure is not witnessed, fully identify source or means of verification of departure:

If self-removal (self-deportation), pursuant to 8 CFR 241.7, check here. ☐

Departure Verified by: ____________________
(Signature and title of immigration officer)

EXHIBIT L

877. Assault With Caustic Chemicals (Pen. Code, § 244)

The defendant is charged [in Count ______] with (placing/ [or] throwing) caustic chemicals on someone else [in violation of Penal Code section 244].

To prove that the defendant is guilty of this crime, the People must prove that:

1. **The defendant willfully and maliciously (placed[,]/ threw[,]/ caused to be placed[,]/ [or] caused to be thrown) any (caustic chemical[,]/ corrosive acid[,]/ flammable substance[,]/ [or] vitriol) on someone else;**

[AND]

2. **When the defendant acted, (he/she) intended to injure the flesh of or disfigure the other person's body(;/.)**

<*Give element 3 when instructing on self-defense or defense of another*>

[AND

3. **The defendant did not act (in self-defense/ [or] in defense of someone else).]**

[A *flammable substance* includes gasoline, petroleum products, or flammable liquids with a flashpoint of 150 degrees Fahrenheit or less.]

Someone commits an act *willfully* when he or she does it willingly or on purpose.

Someone acts *maliciously* when he or she intentionally does a wrongful act or when he or she acts with the unlawful intent to disturb, defraud, annoy, or injure someone else.

New January 2006

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give an instruction defining the elements of the crime.

If there is sufficient evidence of self-defense or defense of another, the court has a **sua sponte** duty to instruct on the defense. Give bracketed element 3 and any appropriate defense instructions. (See CALCRIM Nos. 3470–3477.)

AUTHORITY

- Elements. Pen. Code, § 244.

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- Malicious Defined. Pen. Code, § 7(4).
- Willful Defined. Pen. Code, § 7(1); *People v. Lara* (1996) 44 Cal.App.4th 102, 107 [51 Cal.Rptr.2d 402].
- Simple Assault Not a Lesser Included Offense. *People v. Warren* (1963) 223 Cal.App.2d 798, 801 [36 Cal.Rptr. 127].
- Threat of Great Bodily Harm Not Required. *People v. Day* (1926) 199 Cal. 78, 85–86 [248 P. 250].
- Mental State for Assault. *People v. Williams* (2001) 26 Cal.4th 779, 790 [111 Cal.Rptr.2d 114, 29 P.3d 197].

Secondary Sources

1 Witkin & Epstein, California Criminal Law (3d ed. 2000) Crimes Against the Person, § 53.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.11 (Matthew Bender).

COMMENTARY

Although Penal Code section 244 is titled "assault with caustic chemicals," this statute does not truly define an assault crime since actual contact with the other person is required.

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